

House Study Bill 544

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of state banks and bank holding
2 companies including the disclosure and release of regulatory
3 information, attestation and publication requirements, the
4 removal and service of officers, directors, and employees, and
5 offers to purchase stock, and increasing civil penalties.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 5323DP 81
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1 1 Section 1. Section 524.212, Code 2005, is amended to read
1 2 as follows:
1 3 524.212 PROHIBITION AGAINST DISCLOSURE OF REGULATORY
1 4 INFORMATION.

1 5 The superintendent, members of the state banking council,
1 6 general counsel, examiners, or other employees of the banking
1 7 division shall not disclose, in any manner, to any person
1 8 other than the person examined and those regulatory agencies
1 9 referred to in section 524.217, subsection 2, any information
1 10 relating specifically to the supervision and regulation of any
1 11 state bank, persons subject to the provisions of chapter 533A,
1 12 533C, 533D, 535B, 536, or 536A, any affiliate of any state
1 13 bank, or an affiliate of a person subject to the provisions of
1 14 chapter 533A, 533C, 533D, 535B, 536, or 536A, except when
1 15 ordered to do so by a court of competent jurisdiction and then
1 16 only in those instances referred to in section 524.215,
1 17 subsections 1, 2, 3, and 5, or when the disclosure is
1 18 otherwise expressly permitted or required by the provisions of
1 19 chapter 533A, 533C, 533D, 535B, 536, or 536A.

1 20 Sec. 2. Section 524.217, subsection 2, Code 2005, is
1 21 amended to read as follows:
1 22 2. The superintendent may furnish to the federal deposit
1 23 insurance corporation, the federal reserve system, the office
1 24 of the comptroller of the currency, the office of thrift
1 25 supervision, national credit union administration, the federal
1 26 home loan bank, the financial crimes enforcement network of
1 27 the federal department of the treasury, the United States
1 28 internal revenue service, and financial institution regulatory
1 29 authorities of other states, or to any official or supervising
1 30 examiner of such regulatory authorities, a copy of the report
1 31 of any or all examinations made of any state bank and of any
1 32 affiliate of a state bank.

1 33 Sec. 3. Section 524.220, subsection 1, Code 2005, is
1 34 amended to read as follows:
1 35 1. A state bank shall render a full, clear, and accurate
2 1 statement of its condition to the superintendent, in a format
2 2 prescribed by the superintendent, ~~verified by the oath of an~~
2 3 ~~officer and attested by the signatures of at least three of~~
2 4 ~~the directors, or verified by the oath of two of its officers,~~
2 5 and attested by at least two of the directors. The
2 6 superintendent may, in the superintendent's discretion, use
2 7 any form of statement of condition that is used by the federal
2 8 deposit insurance corporation or the federal reserve system.

2 9 Sec. 4. Section 524.220, subsection 3, Code 2005, is
2 10 amended by striking the subsection.

2 11 Sec. 5. Section 524.312, subsection 3, Code 2005, is
2 12 amended to read as follows:

2 13 3. If a change in the location of the principal place of
2 14 business of a state bank is proposed, application for approval
2 15 of the superintendent shall be made as required by the
2 16 superintendent pursuant to this section. A change in location

2 17 of the principal place of business of a state bank, including
2 18 a change from one municipal corporation to another municipal
2 19 corporation within an urban complex, requires an amendment to
2 20 the articles of incorporation pursuant to sections 524.1502,
2 21 524.1504, and 524.1506. A state bank seeking approval of a
2 22 change of location pursuant to this subsection shall publish
2 23 ~~once each week for two consecutive weeks~~ a notice of the
2 24 proposed change of location in a newspaper of general
2 25 circulation in the municipal corporation or unincorporated
2 26 area in which the state bank has its principal place of
2 27 business, or if there is none, in a newspaper of general
2 28 circulation in the county, or in a county adjoining the
2 29 county, in which the state bank has its principal place of
2 30 business, and in the municipal corporation in which it seeks
2 31 to establish its principal place of business, or if there is
2 32 none, in a newspaper of general circulation in the county, or
2 33 in a county adjoining the county, in which the municipal
2 34 corporation is located. The ~~notices~~ notice shall be published
2 35 within thirty days after the application to the superintendent
3 1 for approval of the change in location is accepted for
3 2 processing. The notice shall set forth the name of the state
3 3 bank, the present location of its principal place of business,
3 4 the location to which it proposes to move its principal place
3 5 of business, and the date upon which the application was
3 6 accepted for processing by the superintendent.

3 7 Sec. 6. Section 524.606, subsection 2, unnumbered
3 8 paragraph 1, Code 2005, is amended to read as follows:

3 9 If, in the opinion of the superintendent, any director of a
3 10 state bank or bank holding company has violated any law
3 11 relating to such state bank or bank holding company or has
3 12 engaged in unsafe or unsound practices in conducting the
3 13 business of such state bank or bank holding company, the
3 14 superintendent may cause notice to be served upon such
3 15 director, to appear before the superintendent to show cause
3 16 why the director should not be removed from office. A copy of
3 17 such notice shall be sent to each director of the state bank
3 18 or bank holding company affected, by registered or certified
3 19 mail. If, after granting the accused director a reasonable
3 20 opportunity to be heard, the superintendent finds that the
3 21 director violated any law relating to such state bank or bank
3 22 holding company or engaged in unsafe or unsound practices in
3 23 conducting the business of such state bank or bank holding
3 24 company, the superintendent, in the superintendent's
3 25 discretion, may order that such director be removed from
3 26 office, and that such director be prohibited from serving in
3 27 any capacity in any other bank, bank holding company, bank
3 28 affiliate, trust company, or an entity licensed under chapter
3 29 533A, 533C, 533D, 535B, 536, or 536A. A copy of the order
3 30 shall be served upon such director and upon the state bank or
3 31 bank holding company of which the person is a director at
3 32 which time the person shall cease to be a director of the
3 33 state bank or bank holding company. The resignation,
3 34 termination of employment, or separation of such director,
3 35 including a separation caused by the closing of the state bank
4 1 or bank holding company at which the person serves as a
4 2 director, does not affect the jurisdiction and authority of
4 3 the superintendent to cause notice to be served and proceed
4 4 under this subsection against the director, if the notice is
4 5 served before the end of the six-year period beginning on the
4 6 date the director ceases to be a director with the bank.

4 7 Sec. 7. Section 524.707, subsection 2, Code 2005, is
4 8 amended to read as follows:

4 9 2. Section 524.606, subsection 2, which provides for the
4 10 removal of directors by the superintendent, shall have equal
4 11 application to officers and employees of a bank, bank holding
4 12 company, bank affiliate, or trust company.

4 13 Sec. 8. Section 524.1601, Code 2005, is amended to read as
4 14 follows:

4 15 524.1601 PENALTIES AND CRIMINAL PROVISIONS APPLICABLE TO
4 16 DIRECTORS, OFFICERS, AND EMPLOYEES OF STATE BANKS AND BANK
4 17 HOLDING COMPANIES.

4 18 1. A director, officer, or employee of a state bank or
4 19 bank holding company who willfully violates any of the
4 20 provisions of subsection 4 of section 524.612, section
4 21 524.613, subsection 2 of section 524.706, insofar as such
4 22 subsection incorporates subsection 4 of section 524.612, or
4 23 section 524.710, shall be guilty of a serious misdemeanor,
4 24 plus, in the following circumstances, an additional fine or
4 25 fines equal to:

4 26 a. The amount of money or the value of the property which
4 27 the director, officer, or employee received for procuring, or

4 28 attempting to procure, a loan, extension of credit, or
4 29 investment by the state bank or bank holding company, upon
4 30 conviction of a violation of subsection 1 of section 524.613,
4 31 or of subsection 1 of section 524.710.
4 32 b. The amount by which the director's, officer's, or
4 33 employee's deposit account in the state bank or bank holding
4 34 company is overdrawn, upon conviction of a violation of
4 35 subsection 2 of section 524.613, or of subsection 2 of section
5 1 524.710.

5 2 c. The amount of any profit which the director, officer,
5 3 or employee receives on the transaction, upon conviction of a
5 4 violation of subsection 4 of section 524.612, or of subsection
5 5 2 of section 524.706, insofar as each applies to purchases
5 6 from and sales to a state bank or bank holding company upon
5 7 terms more favorable to such director, or officer, or employee
5 8 than those offered to other persons.

5 9 d. The amount of profit, fees or other compensation
5 10 received, upon conviction of a violation of section 524.710,
5 11 subsection 1, paragraph "b".

5 12 2. A director or officer who willfully makes or receives a
5 13 loan in violation of subsection 1 of section 524.612, or
5 14 subsection 1 of section 524.706, shall be guilty of a serious
5 15 misdemeanor and shall be subject to an additional fine equal
5 16 to that amount of the loan in excess of the limitation imposed
5 17 by such subsections, and shall be forever disqualified from
5 18 acting as a director or officer of any state bank or bank
5 19 holding company. For the purpose of this subsection, amounts
5 20 which are treated as obligations of an officer or director
5 21 pursuant to subsection 5 of section 524.612, shall be
5 22 considered in determining whether the loan or extension of
5 23 credit is in violation of subsection 1 of section 524.612 and
5 24 subsection 1 of section 524.706.

5 25 3. A director, officer, or employee of a state bank or
5 26 bank holding company who willfully makes or receives a loan or
5 27 extension of credit of funds held by the state bank or bank
5 28 holding company as fiduciary, in violation of subsection 4 of
5 29 section 524.1002, shall be guilty of a serious misdemeanor and
5 30 shall be subject to a further fine equal to the amount of the
5 31 loan or extension of credit made in violation of subsection 4
5 32 of section 524.1002, and shall be forever disqualified from
5 33 acting as a director, officer, or employee of any state bank
5 34 or bank holding company.

5 35 4. A director, officer, or employee of a state bank or
6 1 bank holding company who willfully violates, or participates
6 2 in the violation of, section 524.814, or section 524.819,
6 3 shall be guilty of a serious misdemeanor.

6 4 Sec. 9. Section 524.1602, unnumbered paragraph 1, Code
6 5 2005, is amended to read as follows:

6 6 The superintendent may impose a penalty on a state bank of
6 7 up to one ~~hundred thousand~~ dollars for each day:

6 8 Sec. 10. Section 524.1603, subsection 2, Code 2005, is
6 9 amended to read as follows:

6 10 2. The superintendent may impose a penalty on a state bank
6 11 of up to one ~~hundred thousand~~ dollars for each day that it
6 12 violates the provisions of section 524.1201.

6 13 Sec. 11. Section 524.1803, Code 2005, is repealed.

6 14 EXPLANATION

6 15 This bill relates to the regulation of state banks. The
6 16 bill restricts the ability of the superintendent of banking,
6 17 the banking council, and banking division employees from
6 18 disclosing certain information regarding delayed deposit
6 19 services lenders and mortgage bankers and brokers. The bill
6 20 permits the superintendent to provide copies of examinations
6 21 or reports to the financial crimes enforcement network of the
6 22 U.S. department of the treasury and the internal revenue
6 23 service.

6 24 The bill changes the verification and attestation
6 25 requirements for reports to the superintendent by requiring
6 26 two officers to verify and at least two directors to attest to
6 27 the report rather than allowing an alternative verification by
6 28 one officer and attestation by at least three directors. The
6 29 bill repeals the requirement that a state bank publish the
6 30 bank's statement of condition in a local newspaper. The bill
6 31 reduces the number of times a state bank must publish a notice
6 32 of a proposed change of location of its principal place of
6 33 business in a local newspaper.

6 34 The bill provides the superintendent with authority to
6 35 remove a director, officer, or employee of a bank holding
7 1 company for engaging in unsafe or unsound practices in
7 2 conducting the business of the bank holding company and
7 3 prohibit the director from serving in any capacity for another

7 4 entity regulated by the superintendent. The bill makes the
7 5 criminal provisions of Code chapter 524 applicable to a
7 6 director, officer, or employee of a bank holding company.
7 7 The bill increases the penalty the superintendent may
7 8 impose on a state bank from \$100 per day to \$1,000 per day.
7 9 The bill repeals the provision restricting the ability of a
7 10 bank holding company to purchase stock of a state or national
7 11 bank.
7 12 LSB 5323DP 81
7 13 kk:rj/je/5